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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte EGBERT CLASSEN and KLAUS SOHN

Appeal 2009-005772
Application 10/694,599
Technology Center 3600

Decided: March 16, 2010

Before: LINDA E. HORNER, STEVEN D.A. MCCARTHY, and
MICHAEL W. O'NEILL, *Administrative Patent Judges*.

HORNER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Egbert Classen et al. (Appellants) seek our review under 35 U.S.C. § 134 (2006) of the Examiner's decision rejecting claims 19-25, 27-29, 32-36, 38, and 39, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b) (2006). We REVERSE.

Appellants' claimed invention is an apparatus for loading and/or unloading the transport compartment of a commercial motor vehicle, and includes at least one conveying unit capable of conveying a plurality of goods simultaneously. Spec. 1:12-16. Claim 19, reproduced below, is representative of the subject matter on appeal.

19. An apparatus for at least one of loading and unloading multi-piece goods units to and from a transport compartment in a loading and unloading direction, the apparatus comprising:

at least one conveying unit being at least partly inserted into the transport compartment and simultaneously conveying a plurality of multi-piece goods units therein;

having:

a plurality of beam guide members fixed to an overhead support structure;

a unitary traveling support beam operatively connected to the beam guide members for reciprocating travel into and out of the transport compartment;

at least two gripping units operatively mounted to the unitary support beam for movement therewith and disposed in spaced succession therealong for movement into and out of the transport compartment, each gripping unit including a laterally oriented crossbeam and two fixed length elongate legs mounted to said crossbeam and being movable with respect to one another, the multi-piece goods units being clamped between the two fixed length elongate legs in general centered alignment with respect to the support beam when the gripping unit engages the multi-piece goods units;

at least two lifting units mounted to said crossbeam for lifting the multi-piece goods units in a generally vertical direction perpendicular to the loading and unloading direction for movement of the multi-piece goods units into and out of the transport compartment.

Appellants seek review of the Examiner's rejection of claims 19-25, 27-29, and 39 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent 3,093,252 to Cahill (issued Jun. 11, 1963) and U.S. Patent 3,788,500 to Lemelson (issued Jan. 29, 1974), and seeks review of the Examiner's rejection of claims 32-36 and 38 under 35 U.S.C. § 103(a) as unpatentable over Cahill, Lemelson, and U.S. Patent 4,736,971 to McManus (issued Apr. 12, 1988).

The Examiner found that the claim limitations of two fixed length elongate legs and a lifting unit, both mounted to a crossbeam, are met by either Cahill's carriage units 20 or Cahill's article transporting carriages 30. Ans. 3-6. Based in part on this finding, the Examiner concluded claims 19-25, 27-29, and 39 would have been obvious over Cahill and Lemelson, and concluded claims 32-36 and 38 would have been obvious over Cahill, Lemelson, and McManus. Ans. 3-6.

Appellants contend Cahill's carriage units 20 do not include a lifting unit and Cahill's carriages 30 do not have fixed length elongate legs such that Cahill does not disclose a cross beam to which is mounted both two fixed length elongate legs and a lifting unit as called for in independent claims 19, 32, and 39. App. Br. 8-10.

The issues before us are:

Does Cahill's carriage unit 20 include a lifting unit¹ as recited in claims 19, 32, and 39?

Does Cahill's article transporting carriage 30 have fixed length elongate legs as recited in claims 19, 32, and 39?

¹ Claim 32 does not recite a "lifting unit," but similarly recites a hydraulic cylinder, as is further explained in the subsequent analysis.

Independent apparatus and method claims 19, 32, and 39 are directed to moving multi-piece goods units between a loading region and a transport compartment. Claims 19, 32, and 39 each require a mechanism attached to the crossbeam for lifting the multi-piece goods.²

Claims 19 and 32 each recite two “fixed length elongate legs” mounted or connected to a crossbeam. Similarly, claim 39 is a method claim including the step of providing a conveying unit having two fixed length elongate legs extending from a crossbeam. The phrase “fixed length elongate legs,” is not defined by Appellants’ Specification. *Spec. passim*. The word “fixed” is commonly understood to mean “not adjustable.” *Webster’s Third New International Dictionary, Unabridged* (1961) (“fixed,” adjective, definition 1a). Because the term “fixed” modifies the term “length,” a person or ordinary skill in the art would understand the elongate legs of claims 19, 32, and 39 must not be of an adjustable length.

Accordingly, independent claims 19, 32, and 39 each require a crossbeam having connected to it two elongate legs of a constant length and a mechanism for lifting the multi-piece goods.

Cahill discloses a system for automatically handling and storing articles T, such as boxes, cartons, or the like, that can be stacked on the floor of a warehouse. Cahill, col. 1, ll. 8-11; col. 2, l. 46; fig. 1.

Cahill’s system includes a number of overhead carriage units 20 that run on monorail system M as driven by motor 26. Cahill, col. 2, ll. 70-71; col. 4, ll. 28-34; figs. 1, 2, 5-7. Carriage units 20 include downwardly depending article clamping jaws 24 slidably mounted on cross beams 23,

² More specifically, claim 19 requires at least two lifting units, claim 32 requires a hydraulic cylinder, and claim 39 requires at least one lifting unit.

23a. Cahill, col. 4, ll. 26-28; figs. 5-7. Jaws 24 are actuated towards and away from each other by reversible motor assembly 29. Cahill, col. 4, ll. 35-44; figs. 5, 6. Carriage units 20 can grip a stack of articles T; however, Cahill does not disclose that carriage units 20 have either structure or capability to lift the articles T. Cahill, col. 6, ll. 16-26.

Consequently, we agree with Appellants that Cahill's carriage units 20 do not include a device attached to the crossbeam for lifting the multi-piece goods as recited in independent claims 19, 32, and 39. See App. Br. 8.

Cahill's system further includes a number of overhead cranes comprised of article transporting carriages 30 traveling on overhead rails or beams 31. Cahill, col. 3, ll. 46-47; fig. 1. Each article transporting carriage 30 includes article clamping jaws mounted on two parallel, laterally spaced cross beams 40. Cahill, col. 4, ll. 45-48; figs. 8-10. The uppermost portion of the clamping jaws are sliding plate assemblies 51 comprised of gusset plates 52 having apertures at 55 to slidably engage beams 40. Cahill, col. 4, ll. 57-59, 62-63; figs. 8-10. Extending downwardly from sliding plate assembly 51 are central legs 53, followed by vertical arms 54. Cahill, col. 4, ll. 59-62, fig. 8. Arms 54 have vertically slidable clamp jaws 56 that extend and retract along arms 54. Cahill, col. 4, ll. 64-70; figs. 8, 9.

Consequently, we also agree with Appellants that Cahill's clamping jaws (sliding plate assemblies 51, central legs 53, vertical arms 54, and clamp jaws 56) have variable, adjustable length, and therefore are not elongate legs of a fixed length as recited in independent claims 19, 32, and 39. See App. Br. 9-10.

Neither carriage unit 20, nor carriage 30, of Cahill includes a crossbeam having attached thereto both two elongate legs of a constant

length and a device for lifting the multi-piece goods as required by independent claims 19, 32, and 39. Because both rejections rely upon this erroneous finding of fact, we cannot sustain these rejections. Further, we also cannot sustain the rejection of claims 20-25, 27-29, 33-36, and 38 by virtue of their dependence from claims 19 and 32.

We REVERSE the Examiner's decision to reject claims 19-25, 27-29, 32-36, 38, and 39.

REVERSED

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